

Remarks/Arguments:

Independent claims 1 and 9 are amended as well as dependent claims 2, 3, 6, 7 and 8. As will be shown below, the cited art does not teach or suggest the present invention. Nonetheless, the present claims are amended solely for the sake of improving their clarity.

Claim 3 was objected to for a minor informality and is amended responsive thereto.

Claims 1-16 and 20 were rejected “as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.” The reason for the rejection was that “[t]he term ‘header’ in claims 1-16 and 20 is used . . . to mean “payload”, while the accepted meaning is ‘the beginning of a packet excluding the payload/body of the packet’ The term is indefinite because the specification does not clearly redefine the term.” (19-Mar-2004 OA, page 2-3).

Responsive thereto, Claims 1-8 have been amended from “select header” to “communication monitoring header” to provide clarification. Further, the specification states, in reference to Figure 1, “[a] signal 100 includes an IP header portion 104” (page 12, lines 5-6), a “second portion includes a TCP/UDP layer section 107” (page 12, line 11), a “SIP payload portion 112 . . . that will include SIP address information of the calling and called parties” (page 12, lines 23-28), and a “communication monitoring header 116 that defines monitoring parameters” (page 13, lines 3-9).

As is stated, the communication monitoring header 116 may readily be formed as a separate header as well. (page 13, lines 8-9).

In view of the specification, particularly Figures 1 and 2, and corresponding portions as described, it is submitted that Claims 1-16 and 20 are not indefinite and Applicant requests that this rejection be withdrawn.

Claims 1-20 were rejected under 35 U.S.C 102(e) as being anticipated by Yaker (U.S. 2004/0008621 A1). Applicant respectfully traverses this rejection and requests reconsideration.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. . . . The identical invention must be shown in as complete detail as is contained in the . . . claim.” MPEP § 2131 (citations omitted).

Yaker recites “a system and method for providing advanced calling features, such as call forwarding and call blocking, to a packet network-based telephone, such as an Internet telephone, and a packet network that employs the system or the method.” (Yaker, ¶ 0001).

Yaker recites a “call blocking process [that] includes a packet interception routine that monitors a particular user station for outgoing or incoming calls. Upon detection of a call, incoming or outgoing, the packet interception routine then determines the identity of the calling and called parties and provides this information to a call blocking routine. The call blocking routine proceeds to decide if the call, incoming or outgoing, should be terminated based on the information provided by the packet interception routine.” (Yaker ¶ 0024). In Yaker, “an access node [is continuously] monitoring a packet network and user station for any outgoing or incoming calls.” (Yaker ¶ 0026). That is, the monitoring is for calls being placed or received..

In contrast, referring to Claim 1 for example, Applicant’s claimed invention recites

A gateway system for triggering the monitoring of data packets that form a communication in a data packet network, comprising:

a storage device for storing computer instructions for generating and transmitting data packets having a communication monitoring header, which includes communication monitoring parameters;

a network port for receiving and transmitting the data packets; and

a processor coupled to communicate with the storage device and coupled to the output port wherein the processor generates the data packets with the select header and then transmits them through the network port.

The communication monitoring parameters of the communication monitoring header serve to “define the monitoring requirements for the communication in addition to defining when the header is to be stripped from the data packet.” (Page 17, lines 20-23). Yaker, for example, does not teach or describe “a communication monitoring header, which includes communication monitoring parameters . . .” of Applicant’s claimed invention.

Applicant’s independent Claim 9 recites:

A method in a gateway device to a data packet network for triggering communication monitoring for a plurality of data packets that form a communication, the method comprising:

determining whether a data packet is part of a communication that is to be monitored;

appending a communication monitoring system (CMS) header to the data packet; and

routing the data packet with the appended (CMS) header to a node containing monitoring equipment.

Yaker does not recite, for example, a method with an element of “determining whether a data packet is part of a communication that is to be monitored” as set out in Applicant’s claimed invention of Claim 9.

Applicant’s independent Claim 17 recites:

A method for routing data packets in a data packet network, comprising:

determining that an original data packet is part of a communication that is to be monitored;

duplicating the original data packet and forwarding one of the original and the duplicated data packets to a node containing monitoring equipment; and

forwarding the other of the original and the duplicated data packets to a specified destination.

Yaker does not recite, for example, a method with an element of "determining that an original data packet is part of a communication that is to be monitored" as set out in Applicant's claimed invention of Claim 17.

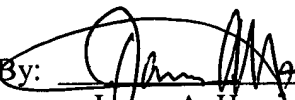
As each claimed element must be clearly shown in a reference for a rejection under 35 U.S.C. 102 to stand. As set out above, each and every element as set forth in Applicant's claimed invention, of independent Claims 1, 9, and 17, is not found, either expressly or inherently described, in Yaker. It is respectfully submitted that each of the amended and original independent claims overcome the grounds of rejection under Section 102(e) and that these claims are allowable over the cited art.

Further, claims 2-8, which depend directly or indirectly from Independent Claim 1, claims 10-16, which depend directly or indirectly from Independent Claim 9, and claims 18-20, which depend directly or indirectly from Independent Claim 17, are similarly allowable over the cited art.

Please direct any questions or comments to the undersigned attorney regarding the Notice of Allowance in this case.

Respectfully submitted,

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